



Companies (Audit, Investigations and Community Enterprise) Act 2004

2004 CHAPTER 27

PART 2

COMMUNITY INTEREST COMPANIES

Becoming a community interest company

36 New companies

- (1) If a company is to be formed as a community interest company, the documents delivered to the registrar of companies under [F1section 10 of the 1985 Act or Article 21 of the 1986 Order] (memorandum, articles and statement of names and particulars of directors and secretary) must be accompanied by the prescribed formation documents.
- (2) “The prescribed formation documents” means such statutory declarations or other declarations or statements as are required by regulations to accompany the documents delivered under that section, in such form as may be approved in accordance with the regulations.
- (3) On receiving the documents delivered under that section and the prescribed formation documents the registrar of companies must (instead of registering the memorandum and articles)—
 - (a) forward a copy of each of the documents to the Regulator, and
 - (b) retain the documents pending the Regulator’s decision.
- (4) The Regulator must decide whether the company is eligible to be formed as a community interest company.
- (5) A company is eligible to be formed as a community interest company if—
 - (a) the memorandum and articles comply with the requirements imposed by and by virtue of section 32 and the company’s name complies with section 33, and

Status: Point in time view as at 06/04/2007. This version of this provision has been superseded.

Changes to legislation: There are currently no known outstanding effects for the Companies (Audit, Investigations and Community Enterprise) Act 2004, Section 36. (See end of Document for details)

- (b) the Regulator, having regard to the documents delivered under [F²section 10 of the 1985 Act or Article 21 of the 1986 Order], the prescribed formation documents and any other relevant considerations, considers that the company will satisfy the community interest test and is not an excluded company.
- (6) The Regulator must give notice of the decision to the registrar of companies (but the registrar is not required to record it).
- (7) If the Regulator gives notice of a decision that the company is eligible to be formed as a community interest company, [F³section 12 of the 1985 Act or Article 23 of the 1986 Order] (registration of memorandum and articles) applies; and if the registrar registers the memorandum and articles he must also retain and record the prescribed formation documents.
- (8) The certificate of incorporation under [F⁴section 13 of the 1985 Act or Article 24 of the 1986 Order] (effect of registration) is to contain a statement that the company is a community interest company.
- (9) The fact that the certificate of incorporation contains such a statement is conclusive evidence that the company is a community interest company.
- (10) If the Regulator decides that the company is not eligible to be formed as a community interest company, any subscriber to the memorandum may appeal to the Appeal Officer against the decision.

Textual Amendments

- F1** Words in s. 36(1) substituted (6.4.2007) by [The Companies Act 2006 \(Commencement No. 2, Consequential Amendments, Transitional Provisions and Savings\) Order 2007 \(S.I. 2007/1093\)](#), art. 1(3), [Sch. 4 para. 6\(a\)](#) (with art. 11(1))
- F2** Words in s. 36(5)(b) substituted (6.4.2007) by [The Companies Act 2006 \(Commencement No. 2, Consequential Amendments, Transitional Provisions and Savings\) Order 2007 \(S.I. 2007/1093\)](#), art. 1(3), [Sch. 4 para. 6\(a\)](#) (with art. 11(1))
- F3** Words in s. 36(7) substituted (6.4.2007) by [The Companies Act 2006 \(Commencement No. 2, Consequential Amendments, Transitional Provisions and Savings\) Order 2007 \(S.I. 2007/1093\)](#), art. 1(3), [Sch. 4 para. 6\(b\)](#) (with art. 11(1))
- F4** Words in s. 36(8) substituted (6.4.2007) by [The Companies Act 2006 \(Commencement No. 2, Consequential Amendments, Transitional Provisions and Savings\) Order 2007 \(S.I. 2007/1093\)](#), art. 1(3), [Sch. 4 para. 6\(c\)](#) (with art. 11(1))

Commencement Information

- I1** S. 36 in force at 1.7.2005 by [S.I. 2004/3322](#), art. 2(3), [Sch. 3](#)

Status:

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Changes to legislation:

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